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Attorneys for Kelly L. Flint

**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

<i>In re:</i>	) <b>Case No. 19-30088 (DM)</b>
	) Chapter 11
PG&E CORPORATION	) (Lead Case)
	) (Jointly Administered)
-and-	)
PACIFIC GAS AND ELECTRIC	) <b>MOTION PURSUANT TO FEDERAL</b>
COMPANY	) <b>RULE OF BANKRUPTCY PROCEDURE</b>
Debtors.	) <b>9006(b)(1) TO DEEM THE CLAIM OF</b>
	) <b>KELLY L. FLINT TIMELY FILED</b>
<input type="checkbox"/> Affects PG&E Corporation	)
	) Date: August 9, 2022
<input type="checkbox"/> Affects Pacific Gas & Electric	) Time: 10:00 a.m.
	) Place: <b>To Be Held Telephonically</b>
<input checked="" type="checkbox"/> Affects Both Debtors	) United States Bankruptcy Court
	) Courtroom 17
<i>All papers shall be filed in the Lead Case,</i>	) 450 Golden Gate Avenue
<i>No. 19-30088 (DM)</i>	) 16 <sup>th</sup> Floor
	) San Francisco, CA
	) Judge: Honorable Dennis Montali

**Objection Deadline: August 2, 2022**

Pursuant to Rule 9006(b) of the Federal Rules of Bankruptcy Procedure, Claimant Kelly L. Flint moves for an order expanding time to file Proof of Claim, and allow, Claim Number 108413, that was filed with Kroll and submitted with this motion as "Exhibit A", to be considered timely filed. This motion is based upon the points and authorities set forth herein and concurrently Filed Notice of Motion, Declaration of Kelly Flint, in addition to any evidence or

1 oral argument presented at the time of hearing on this matter.

2  
3 **I.**

4 **SUMMARY OF ARGUMENT**

5 Kelly Flint lost personal property and a vehicle which were destroyed in the Camp Fire.  
6 Further, she suffered emotional distress evacuating from the Camp Fire. She did not file a claim  
7 within the time permitted as she did not understand that she had the right to do so. Under the  
8 flexible standard for excusable neglect, her claim should be allowed.

9 Under the factors in the United States Supreme Court case of *Pioneer Investment Services*  
10 *v. Brunswick Associated Ltd. Partnership* 507 U.S. 380 (1993), the circumstances of this case  
11 clearly present excusable neglect. In following *Pioneer*, the Ninth Circuit found that even when  
12 experienced counsel failed to calendar an appellate deadline with no extraneous circumstances, a  
13 finding of excusable neglect was proper. *Pincay v. Andrews* 389 F.3d 853, 859 (9<sup>th</sup> Cir. 2004).  
14 This case presents no prejudice to the Debtors, no delay to the judicial administration of this case,  
15 and is made in good faith. Rather, to deny this claim would work a severe injustice to the  
16 Claimant, which must be considered. *Id.*

17 **II.**

18 **PROCEDURAL BACKGROUND**

19 On January 29, 2019, the Debtors, PG&E Corporation and Pacific Gas and Electric  
20 Company (“Debtors”) filed a voluntary Chapter 11 Petition. *See* Dkt. 1. On July 2, 2019, the  
21 Court entered an order establishing October 21, 2019 (“the bar date”) as the deadline for Fire  
22 Victim claimants to file proofs of claim in this bankruptcy. *See* Dkt. 2806. That deadline was  
23 extended to December 31, 2019 (“the “extended bar date.”). *See* Dkt. 4872.

24 **III.**

25 **FACTUAL BACKGROUND**

26 Kelly Flint lost her vehicle and other personal property, as well as suffering emotional  
27 distress as a result of the Camp Fire. She was misinformed about the claim process, received  
28 conflicting information and was working and going to school. Therefore, she did not file a timely

1 claim. When she heard she might be able to file a claim, she contacted counsel to do so. See  
2 Declaration of Kelly Flint.

#### 3 IV.

#### 4 ARGUMENT

5 The time in which to make claims in a Chapter 11 Bankruptcy may be extended by motion  
6 based on excusable neglect. Federal Rules of Bankruptcy Procedure, Rule 9006(b)(1) provides:

7 (b) Enlargement.

8 (1) *In general.* Except as provided in paragraphs (2) and (3) of this subdivision,  
9 when an act is required or allowed to be done at or within a specified period by  
10 these rules or by a notice given thereunder or by order of court, the court for cause  
11 shown may at any time in its discretion (1) with or without motion or notice order  
12 the period enlarged if the request therefor is made before the expiration of the  
13 period originally prescribed or as extended by a previous order or (2) **on motion  
made after the expiration of the specified period permit the act to be done  
where the failure to act was the result of excusable neglect.**

14 Fed R. Bank. Proc. 9006.(b)(1). *Emphasis supplied.*

15 Determination of excusable neglect has been interpreted by the United States Supreme  
16 Court as an equitable consideration.

17 “We conclude the determination at bottom an equitable one, taking account of all relevant  
18 circumstances surrounding the party’s omission. These include. . .the danger of prejudice  
19 to the debtor, the length of the delay and its potential impact on judicial proceedings, the  
20 reason for the delay, including whether it was within the reasonable control of the movant,  
21 and whether the movant acted in good faith.” *Pioneer Inv. Servs v. Brunswick Assoc.*  
22 *Ltd.P’ship*, 507 U.S. 380, 395 (1993)

23 Here, there is no danger of prejudice to the Debtors. Where the claim does not disrupt the  
24 distribution process, no prejudice will result. *In re Sacred Heart Hosp.* 186 B.R. 891, 897.  
25 (“Exactly how the debtor’s assets are distributed is ultimately of little consequence to the  
26 debtor, so long as the claim is not filed so late as to disrupt the distribution process.”)

27 Further, the delay is not significant, as the Trust has not finished its review process.  
28 Allowing the late claim will not delay the proceedings.

29 The reason for the delay in filing a claim was that Kelly Flint simply misunderstood the  
30 process. She was confused by conflicting information and was advised not to file a claim because  
31 she was a renter. Excusable neglect will be found even where sophisticated attorneys miss a  
32 deadline. *ZILOG, Inc. v. Corning (In re ZILOG, Inc.* 450 F.3d 996, 1006). The case for

1 excusable neglect is even more compelling when the mistake was made by an unrepresented  
2 layperson. *Id.*

3 Further, Ms. Flint acted in good faith. The failure to file was not based on litigation  
4 tactics where a party deliberately misses a deadline to gain advantage. *Venice Baking Co. v.*  
5 *Sophast Sales &Mkg. LLC* 2016 U.S. Dist LEXIS 141533. (This factor alone weighs against  
6 finding excusable neglect even when the other *Pioneer* factors are present).

7 And, finally, the likelihood of injustice is great, if this claim is not permitted. Mr. Flint is  
8 a Camp Fire victim whose primary avenue for compensation is through this bankruptcy. This is a  
9 factor which was properly considered by the Court in *Pincay, supra*, 389 F.3d at 859.

10 V.

11 **CONCLUSION**

12 For all of the above reasons, the motion should be granted, and the claim of Ms. Flint  
13 should be allowed to be deemed timely.

14 Dated: July 8, 2022.

Respectfully submitted,

15 THE KANE LAW FIRM

16  
17 By: /s/ Bonnie E. Kane  
18 BONNIE E. KANE  
19 Attorneys for Kelly Flint